

Federal CAFO Rule Revisions for Nutrient Management Plans

The federal concentrated animal feeding operation (CAFO) regulations require CAFOs that apply manure, litter, or process wastewater to land to develop and implement nutrient management plans (NMPs). The 2008 revisions to the federal CAFO rules include several important changes for a permitted CAFO's NM. The table below summarizes the federal changes and what they mean to CAFOs in the Colorado River Basin Region.

Regulatory NMP Change	What it means for Colorado River Basin Region CAFOs
The NMP must be submitted with a CAFO's permit application	<u>No change</u> ; the existing Order already required NMP submittal. An NMP must be submitted by the permit effective date. (The permit application – or NOI – is required for both new enrollees and existing enrollees.)
The permitting authority must review, public notice and comment, and approve the CAFO's NMP.	<u>No change</u> ; the existing Order already included provisions for NMP review, public notice, and approval.
Certain information from the CAFO's NMP is incorporated into the permit as enforceable terms ("NMP terms," see below).	The existing Order incorporated the entire NMP as an enforceable permit provision. The revised Order will incorporate <u>only the information specified by EPA</u> in the federal regulations as enforceable "NMP terms."
If the NMP is revised, it must be resubmitted to the permitting authority for review. Changes to NMP terms are subject to public notice; certain substantial changes (see below) are subject to public comment.	<p>The <u>existing Order required NMP revision at least once every 5 years</u>. Now, a CAFO operator must:</p> <ul style="list-style-type: none"> • Revise the NMP to reflect changes in the location, amount, method, timing or frequency of land application • Submit the revised NMPs to the Regional Water Board at least 90 days prior to the change and identify changes to the NMP <p>The Regional Water Board will:</p> <ul style="list-style-type: none"> • Review the changes to determine if they affect the "NMP terms" of the permit • If no change to the NMP Terms, notify the CAFO operator of approval to implement the revised NMP • If non-substantial change to the NMP Terms: Public notice the revised NMP and terms and notify the CAFO operator of approval to implement the revised NMP • If substantial change to the NMP Terms: <ul style="list-style-type: none"> ○ Make revised NMP and proposed changes to NMP Terms available for public review and comment, ○ Hold a public hearing, if necessary ○ Work with the CAFO operator if additional NMP changes are needed ○ Notify the CAFO operator of final decision on changes to NMP terms

What are the NMP Terms?

The elements of the NMP that are incorporated as enforceable terms of the permit (“NMP Terms”) are:

- Maximum lbs/acre of plant available N and P from all sources, for each crop and field
- The result of the P Index and N Leaching Index assessments and associated nutrient management recommendation
- The crops to be planted in each field or any other uses (e.g., pasture or fallow fields). The NMP may also include alternative crops that are not in the planned crop rotation
- Realistic yield goal for each crop or use for each field
- The N and P recommendation for each crop
- The methodology by which the NMP accounts for the following factors when calculating the amount of manure to be land applied (the factors themselves are not NMP Terms):
 - Soil tests results
 - Credits for all plant available N in the field (mineralization from prior manure applications, previous legume crops)
 - The amount of N and P in the manure to be land applied
 - Consideration of multi-year phosphorus application
 - All other applications of plant available N and P to the field
 - The form and source of manure
 - The timing and method of land application
 - Volatilization of nitrogen and mineralization of organic nitrogen

What are Substantial Changes to the NMP Terms?

NMP revisions that result in any of the following changes are considered to be substantial changes, which trigger a public notice and comment process.

- Addition of new land application areas not previously included in the NMP (unless the new land application area is addressed by, and will be managed in accordance with, another CAFO’s approved NMP)
- Any changes to the field-specific *maximum* amount of plant available N and P from all sources
- Addition of any crop or other use not included in the approved NMP
- Changes that are likely to increase the risk of N and P transport to waters of the U.S.